



## Nepal

### Country Reports on Human Rights Practices - [2001](#)

Released by the Bureau of Democracy, Human Rights, and Labor  
March 4, 2002

Nepal is a constitutional monarchy with a parliamentary form of government. In 1990 the late King Birendra, formerly an absolute monarch, legalized political parties, after which an interim government promulgated a new Constitution. On June 1, the late Crown Prince Dipendra apparently killed King Birendra and nine members of the royal family. King Birendra's brother, Prince Gyanendra, assumed the throne on June 4. King Gyanendra retains limited powers, and has dissociated himself from direct day-to-day government activities. The democratically elected Parliament consists of the House of Representatives (lower house) and the National Assembly (upper house). In 1999 the country's third national parliamentary elections were held, which international observers considered to be generally free and fair. After Maoist insurgents broke a 4-month ceasefire with a series of violent attacks, on November 26 King Gyanendra, acting on the advice of the Cabinet of Ministers, declared a nationwide state of emergency. The state of emergency may be maintained for up to 3 months without the approval of Parliament. Under the Constitution's emergency provisions, the King suspended several constitutional rights, including the right to assembly, the right to public information, and the rights to opinion and expression. The Constitution provides for an independent judiciary; however, the courts often are inefficient and susceptible to political pressure and corruption.

In 1996 the leaders of the Maoist United People's Front ("Maoists") launched a "People's War" that has led to continued violence in more than 50 of the country's 75 districts. The insurrection has been waged through torture, killings, bombings, extortion, and intimidation against civilians and public officials.

The National Police Force maintains internal security and is subject to effective civilian control. Local Chief District Officers (CDO's), who are civil servants in the Home Ministry, have wide discretion in maintaining law and order. An Act passed by Parliament in August provided for the establishment of the paramilitary Armed Police Force. Although police reaction to the "People's War" insurgency has led to incidents of unwarranted force, the number of such reports declined during the year. The Royal Nepal Army, which traditionally is loyal to the King, is beginning to assume a domestic-security role in responding to the Maoist insurgency. Following the declaration of a state of national emergency November 26, the Army was mobilized to fight the insurgency in a number of districts. The police committed a number of serious human rights abuses.

The country is extremely poor, with an annual per capita gross domestic product of approximately \$242; the population is 23.2 million. Over 80 percent of the country's population support themselves through subsistence agriculture. Principal crops include rice, wheat, maize, jute, and potatoes. Tourism and the export of carpets and garments are the major sources of foreign exchange. Foreign aid accounts for more than half of the development budget. The economy is mixed, with 39 public sector firms. Seventeen former government firms have been privatized or liquidated since 1992, although the rate of privatization is slow.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The police at times used unwarranted lethal force and continued to abuse detainees, using torture as punishment or to extract confessions. The National Human Rights Commission (NHRC), established in 2000, investigates allegations of police brutality and recommends compensation for victims and penalties for police officers who commit abuses. While the Government has begun to pay compensation to some victims, the police officers involved seldom are punished. The disappearance of persons in custody is a problem. Prison conditions remain poor. The authorities use arbitrary arrest and detention. Public Security Regulations promulgated in June giving local authorities broader discretion in making arrests on the suspicion of terrorist activities were rescinded November 9. Following the November 26 state of emergency declaration, the King promulgated the Terrorist Ordinance of 2001 that defined a number of crimes, including taking up arms against the sovereignty and security of the country, as acts of terrorism. The Ordinance also allows the Government to declare individuals as terrorists for up to 90 days without charges; to hold persons under house arrest; and to

set up special courts for terrorists. The King also promulgated a second order designating members of the Communist Party of Nepal (Maoists) and individuals involved with or assisting the Maoists as terrorists. Lengthy pretrial detention, judicial susceptibility to political pressure and corruption, and long delays in trial procedures remain problems. The Government at times imposes some restrictions on freedom of expression, and the media practices self-censorship. After the November 26 declaration of the state of emergency, several individuals working for Maoist-affiliated newspapers were arrested and the newspapers closed down. Freedom of assembly was one of the constitutional rights suspended after the declaration of emergency; however, the Government subsequently clarified that only rallies and demonstrations by Maoist-affiliated organizations are banned during the emergency. The Constitution imposes restrictions on proselytizing to spread religion. Women, the disabled, and lower castes suffer from widespread discrimination. Violence against women, trafficking in women and girls for prostitution, forced labor, and child labor also remain serious problems. There have been instances of forced child labor in the past, but there were no cases reported during the year.

In March the Government began distributing land to approximately 200,000 bonded laborers and family members freed in the 2000 Government decree from the feudal "Kamaiya" system of debts to their landlords.

During the year, the Maoists increased the scope of their campaign, frequently committing torture, killings, bombings, and other abuses.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

The police continued to commit extrajudicial killings. Most reports of extrajudicial killings by police involved police efforts to control violent demonstrations, or occurred while suspects were in police custody. On February 3, police in Baguwa, Gorkha District shot and killed Nar Bahadur Ale Magaar and Rita Banjara as they were preparing a stage for a mass meeting to be held by the Maoists. According to one local human rights organization, police shot and killed suspected Maoist Madan Shrestha on May 4 in Yangshila, Mooring District, as he was being brought to jail. On May 13, police shot and killed suspected Maoists Kul Bahadur Malla, Chandra Jumari B.K., and Tika Kumari Khatri in Tatopani, Dailekh District, as they were being arrested. On June 5, police shot and killed suspected Maoist Prakash Ojha of Tetariya, Morang District.

Following the November state of emergency declaration, the Informal Sector Service Center (INSEC), a local human rights organization, reported the following killings of civilians by Royal Nepal Army (RNA) troops; however, the Ministry of Defense has not confirmed RNA involvement in any of these deaths. On November 30, five citizens attending a religious ceremony in Rolpa District reportedly were killed by gunshots fired from an RNA-manned helicopter. Seven others were injured. On December 4, Prakash Lamichhane of Mahankal, Sindhupalchowk District died after having been shot by the RNA near a hydro-electric project the previous day. On December 7, 16-year-old Jitendra Tharu of Deudhakala, Bardiya District, was shot and killed by the RNA while cutting grass in the jungle. Another local human rights organization reports that RNA troops shot and killed 11 villagers holding a meeting in Dang District on November 28. On November 28, in Salyan District, Maoist cadre commandeered an NGO vehicle, along with three local NGO staff and a driver. RNA troops exchanged gunfire with the Maoists in the vehicle. In the exchange eight Maoists, the four NGO employees, and a local civilian working at a nearby water mill were killed. Also according to INSEC, on December 16, police beat to death Dil Bahadur Ram of Dododhara, Kailali District.

There were several incidents in which police fired into crowds during the year. On May 27, police fired into a crowd in Lamjung protesting government corruption, killing Shuk Man Gurung, the Khudi Village Development Chairman. The Human Rights Committee in Parliament is investigating the incident.

Police also were responsible for deaths in custody. In January police opened fire on rioting inmates at Banke Prison in Nepalgunj in the southwest, killing two persons. The Chief District Officer, the senior representative of the Home Ministry in the district, was reassigned after it was reported that he had ordered police to fire on the unarmed inmates. On August 28, the NHRC recommended that the Government pay the families of each victim compensation in the amount of a little more than \$1,300 (Rs. 100,000), which the Government paid soon thereafter. On August 15, Bishnu Rai died of injuries sustained in police custody in Balaju, Kathmandu. He had been arrested the previous day. A police sub-inspector reportedly has been suspended while the case is under investigation. Jit Bahadur Ghatri died under suspicious circumstances November 30 after having been arrested 4 days earlier (see Section 1.c.). On December 6, Chandradip Yadav, Uttimlal Yadav, and Devkumar Yadav were shot and killed by police when they tried to flee a police van after their arrests. INSEC reported that police shot and killed a 30-year-old man in Gorchari, Siraha District, after arresting him December 8. According to the report, police tied him to a tree and beat him before shooting him.

On September 9, police in Parsa District in the south-central part of the country shot and killed one civilian while attempting to quell a riot between long-time residents of the lowland area and alleged Maoist migrants from the hills. The incident was under investigation by the Home Ministry at year's end.

On October 1, police in Tulsipur, Dang District, shot into a crowd of violent rioters, killing a 25-year-old man and injuring nine others. The rioters were vandalizing and setting fire to buses in protest after a bus hit and killed two students. Local authorities imposed a curfew on October 1 and 2.

In what may have been a staged encounter, on January 23, local police shot and killed five robbery suspects in a jungle in Bara District in the south. Police maintained that the suspects were killed in a confrontation, but this account was disputed by both local residents and human rights activists. By year's end, no action had been taken against the police involved.

On August 28, the NHRC recommended that the Government pay compensation totaling more than \$1,300 (Rs. 100,000) to the family of Khushi Lal Yadav, who was killed by security forces attempting to quell a violent riot in Saptari District on December 31, 2000. The Government has paid the fine. The Appellate Court in Lalitpur is investigating the cases of five other victims killed by police attempting to control violent riots at the end of December 2000 in Kathmandu. According to the Home Ministry, the Government has paid the families of the deceased slightly more than \$650 each (Rs. 50,000) and fined the officers involved.

No action has been taken in the cases of Ravi Upreti, who died in June 2000, of injuries reportedly sustained from beatings while in police custody in Jhapa in the eastern part of the country, or of Sudish Rimal, who died in July 2000. Family members alleged that Rimal was tortured but declined to allow an autopsy, making confirmation of these charges impossible.

Police, armed personnel, insurgents and non-combatants continue to be killed in the increasingly violent "People's War." Launched in 1996 by leaders Pushpa Kamal Dahal (a.k.a. "Prachanda") and Baburam Bhattarai, the "People's War" is a self-declared Maoist insurgency. The Government continued to commit human rights abuses in its efforts to combat the insurgency. Security forces estimate that they have killed at least 1,350 Maoists since 1996. Approximately 350 Maoists were killed by police during the year. Maoist insurgents often are drawn from members of the local population. Some of the deaths are believed to have been extrajudicial killings. In August the NHRC recommended disciplinary action against police officials responsible for ordering police to fire into a meeting of the Maoist-affiliated All Nepal Women's Association in Bharatpur in late 2000, killing one woman and injuring several others. The Commission also has recommended that the Government pay compensation of more than \$1,300 (Rs. 100,000) to the family of the woman who was killed and lesser amounts to four of the injured. To date, no action has been taken against police who opened fire on a Maoist "cultural program" at a school in Accham District in 2000, killing nine persons, several of whom were bystanders. Since the event occurred before the establishment of the Human Rights Commission and the Home Ministry maintains that police acted in self-defense after being fired upon first, no action is likely. A Home Ministry official who investigated the killing of at least 18 Maoists during a "search operation" in Rukum in February 2000 stated that the Ministry has been unable to determine which police officers may have been guilty of using excessive force and consequently has taken no action. By year's end, no further action had been taken in the case of 20 to 30 police officers charged with abuses against the public in connection with police sweeps in 1998, and it appeared that no action would be taken.

On September 9, B.K. Budhathoki, the exiled ethnic-Nepali leader of the Bhutan People's Party, was stabbed to death in Damak in the east. Police arrested three suspects the same day. On September 19, police also detained a prominent Bhutanese refugee leader in connection with the murder, although that suspect had just returned from an international human rights conference overseas a few days before the killing.

Maoists were responsible for numerous abuses. Maoist rebels clashed with police repeatedly during the year. Police fatalities totaled 206 by mid-September, more than double the number recorded in 2000. On January 23, three policemen were killed by a landmine at Daregauda, Gorkha. On April 1, Maoists attacked a police post in Rukumkot in Rukum District, in the northwest, killing 35 policemen and taking 16 persons prisoner. A similar attack occurred on April 5 in Dailekh, in which 31 policemen were killed. Another 30 policemen reportedly surrendered to their attackers, who then summarily executed 8 of the captives. On May 8, four policemen were killed in a Maoist ambush set near a police post in Chisopani, Syangja District. On June 29, Maoists shot and killed five policemen in Tanahu District. On July 6, the birthday of the country's new King Gyanendra and the country's new National Day, Maoists launched attacks on police posts in 3 separate locations, killing 21 policemen in Lamjung, 10 in Gulmi, and 10 in Nuwakot. On July 23, Maoists attacked 3 police posts in Bajura District, killing 15 officers. On November 21, Maoist leader Prachanda unilaterally called an end to the 4-month ceasefire with the Government. On the night of November 23, Maoist insurgents launched a series of surprise attacks on police, army, and other government facilities in a number of districts. In Dang District, Maoists overran an army barracks, killing the company commander and 11 other soldiers. Maoists attacks at two separate police posts killed nine policemen in Dang District as well. On the same day in

Syangja District, Maoists attacked a police post, killing 14 policemen. The night of November 25, Maoists attacked army, police and government offices in Salieri, in Solukhumbu District, killing 27 policemen, 4 soldiers, and 2 civilian government officials, including the CDO. On November 26, Maoists ambushed an army convoy in Pyuthan District, killing two soldiers. On November 27, Maoists attacked a police post in a remote area of Darchula District, killing four policemen.

Although their activities are focused on the police, the Maoists continued to kill and injure civilians. For example, on January 1, Maoists shot and killed Nepali Congress supporter Ram Bharose Shah in Sarlahi District in the southeast. On January 19, Customs Inspector Sridhar Bhattarai was killed in a gunfight with Maoists in Jambu, Sindhupalchok. On February 3, Maoists ambushed the vehicle in which the Chief Justice of the Supreme Court was riding in Surkhet District, in the midwest. Although the Chief Justice survived the attack, six others (including the judge's bodyguard, a local court official, and four policemen) were killed. On February 9, Maoist rebels beat Aspal Tamang to death in Sindhupalchok. On February 12, in Accham District two children were killed and eight others injured after playing with a bomb that was widely assumed to have been left by Maoists. On February 19, Maoists killed two relatives of a former government minister and injured six others in Kailali District. On February 27, Maoists shot and killed Tikaraj Aran, a Nepali Congress Convention member. Three policemen on their way to the scene the following day were injured by a landmine.

On June 26, Maoists abducted and killed Shyam Sunder Yadav, Chairman of the Khajurgachi Village Development Committee in Jhapa. On July 17, two dozen Maoist militants hacked Nepali Congress party member Krishna Bahadur Kunwar to death in Pithuwa, Chitwan. On September 9, Baijina Das Tharu was killed in a confrontation between purported Maoists and local villagers in Parsa District. On September 23, the press reported that Maoists shot and killed Communist Party of Nepal-Marxist/Leninist (CPN-UML) member Nimlal Rokka in Holeri, Rolpa.

On November 25, Maoists beat Netra Bahadur Shrestha, President of the Mandu Village Development Committee in Gorkha District, to death with a chisel. On December 3, suspected Maoist sympathizers left a bomb in a carpet showroom in Kathmandu. The bomb exploded, killing three persons. On December 5, Maoists killed 16-year-old Tara Lawa in Thumbika, Taplejung District. On December 6, Maoist insurgents killed two unarmed policemen at Dhumbas Police Post in Kaski District by shooting them in the mouths. On December 8, Maoists stabbed and shot to death shopkeeper Sitaram Rai in Nuwakot District. On December 9, Maoists stabbed Nepali Congress activist Megh Bahadur Baniya to death in Chinnebas, Syangja District. On December 15, two assailants claiming to be Maoists shot and killed Ramesh Manandhar, a plainclothes U.S. Embassy guard, on duty near the U.S. Agency for International Development in Kathmandu. On December 15, a group of 15-20 Maoists in Dailekh District beat to death Janak Thapa. On December 17, Maoists killed a primary school headmaster and a former President of the Village Development Committee in Gorkha District. On December 28, Maoists shot and killed a 23-year-old man in Tara Khola, Baglung District.

The Government and the Maoists declared a ceasefire on July 23 and held three rounds of talks in August, September and November. Following the third rounds of talks in November, on November 21, Maoist leader Prachandra issued a unilateral statement ending the ceasefire. On November 23, the Maoists broke the ceasefire with attacks on police, army, and Armed Police Force personnel in several districts. According to government figures, the insurgency has resulted in the deaths of an estimated 2,298 persons, including 508 policemen; 34 members of the army; 2 members of other security forces; 340 civilians; and 1,414 insurgents. These figures indicate that 274 police; 31 army; 84 civilians; and 423 insurgents were killed during the year.

On September 27, several villagers beat to death 60-year-old Malechhiya Devi in Bela Ekdara, Mahottari District, on suspicion of witchcraft. One person has been jailed in connection with the case, two others have absconded. (see Section 5).

#### b. Disappearance

The disappearance of persons in police custody is a problem. According to the INSEC, 130 civilians have disappeared in police custody since 1996. According to Amnesty International (AI), Shiva Prasad Sharma disappeared after three men, believed to be plainclothes policemen, took him into custody in Nepalgunj, Banke District, on February 24. A habeas corpus petition filed by his relatives was dismissed by the appellate court judge in March on the grounds that police denied arresting him.

On September 18, the Government released the names of 188 Maoists imprisoned under several security and criminal acts, along with 96 others arrested on charges such as extortion and hooliganism, but not identified as Maoists. The Government said it had no information on the whereabouts of 67 other individuals alleged by Maoists to be in police detention.

In December 2000, Indra Prasad Dhungel and Yuddhasingh Kunbar were ordered released from prison in

Rajbiraj, Saptari District. They were rearrested immediately while still on court premises, but subsequently were released (see Section 1.d.).

Opposition politician Ishwari Dahal, who was reported by Amnesty International to have been detained by police in September 2000, was released on August 21. In January 1999, police arrested freelance journalist Milan Nepali. Nepali, who was associated with the left-leaning publication "Janadesh", later disappeared from police custody; as of year's end, Nepali's whereabouts were unknown (see Section 2.a.). Police continue to maintain that they have no knowledge of the whereabouts of lawyer and human rights defender Rajendra Dhakal, reported missing by AI after his January 8, 1999, arrest in Tanahun District because of his alleged involvement in Maoist violence.

On October 16, the Government released Matrika Yadav, the only Central Committee member in government custody. Authorities released Maoist leader Dinesh Sharma in November 2000 who disappeared again shortly thereafter.

On July 13, Maoists surrounded a police post in Rolpa in the west, taking dozens of policemen hostage. The Army subsequently confronted the insurgents, and a standoff ensued. Representatives of human rights groups who arrived in Rolpa within days to mediate state that the Maoists released 22 of the police hostages at that time, and may have released more thereafter. Since no hostages were handed over directly to the Government, the Government cannot confirm those releases. At the end of September the Maoists released 5 policemen previously captured in Banke, and on October 2 released 17 of those captured in Rolpa to the International Committee of the Red Cross (ICRC). On October 6, Maoists released an additional eight policemen to the ICRC. According to the Home Ministry, as of October 3, the Maoists continued to hold 42 policemen abducted from Rolpa; 4 from Banke; 2 from Rukum; and 1 from Baitadi District.

According to INSEC, Maoists are responsible for the disappearance of 101 individuals since 1996. On September 21, the Government released a list of 117 civilians it claims that the Maoists have abducted since 1996. On July 9, Maoists kidnaped former Nepali Congress MP and present Bajura District Development Chairman Dev Raj Joshi. He was released September 28. On September 16, Maoists abducted two members of the Chaughada Village Development Committee in Nuwakot. One escaped the following day and the other was released within 48 hours, (but claimed he had been beaten during his detention) (see Section 1.d.). According to government statistics and press reports, the Maoists abducted at least 23 civilians after the announcement of the ceasefire July 23.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture, and the Civil Code prohibits acts such as beating and mutilation; however, the police at times use torture and beatings to punish suspects or to extract confessions. According to AI, torture methods include boxing of the ears, beating of the feet, and the rolling of weights over the thighs. AI noted that torture apparently was used to intimidate or punish detainees and to extract information and/or confessions, and that torture often occurred while detainees were held incommunicado and unable to contact family members, doctors, or lawyers (see Section 1.d.). The situation appears to be improving somewhat since the establishment of the NHRC, but it is unclear to what extent the improvements are the direct result of the establishment of that body. Nonetheless, the Government sometimes fails to conduct thorough and independent investigations of reports of police brutality and generally does not take significant disciplinary action against officers involved.

Police often are unwilling to investigate and to discipline fellow officers, and persons are afraid to bring cases against police for fear of reprisals. The Government has begun human rights education for the police force. On February 26 the Dolokha District Court sentenced a police officer to a 4 year prison term and ordered him to turn over half of his assets to an 18-year-old woman he raped at gunpoint the previous year.

The Constitution and the Torture Compensation Act provide for compensation for victims of torture. According to the Center for Victims of Torture (CVICT), 7 persons filed for compensation under the act during the year, compared to 10 claims during 2000. CVICT says that a total of five cases previously filed were awarded compensation. Among those, a 14-year-old arrested on suspicion of theft, was awarded approximately \$135 (Rs. 10,000) by Saptari District Court on March 21.

According to the CVICT, on February 8, police seeking information about the murder of a local official entered the home of a woman in Jajarkot District and beat her. CVICT also reports the March 23 beating during police custody of a member of a left-wing political party in Kanchanpur District. On May 5, police reportedly beat two persons in Chitwan District, who had been arrested after a personal dispute. On May 6, both filed a torture complaint at their Village Development Committee Office, and one filed a civil case against a police sub-inspector and constable for compensation. The district court ruled against the plaintiff in the civil case, and no

further action has been taken against the police. On May 30, four persons filed a torture compensation case, claiming they were beaten during their detention on criminal charges in Jhapa District. On June 18, five members of a family who had come to the Chief District Office in Nepalgunj to obtain citizenship certificates were detained for 2 days as suspected Maoists. At least two of the five claimed they were beaten while in police custody.

Amnesty International conducted an official visit to the country in November 2000. As a result of that visit, AI recommended amendments to the Torture Compensation Act, including changes to the penal code that would make torture a specific offense under criminal law. The Government has taken no action on suggested changes to the law. Human rights groups have reported instances of torture in areas affected by the "People's War." Dozens of male detainees reported having been tortured by the police; women in these areas have reported instances of rape and sexual abuse by the police.

Local and international human rights groups also have documented Maoist violence in areas affected by the "People's War," including the severing of limbs. The Maoists most often have targeted political leaders, local elites, and suspected informers. These targets included not only members of the majority Nepali Congress Party (NCP), but also members of the opposition Communist Party of Nepal-United Marxist/Leninist (CPN-UML). Throughout the year, Maoists looted banks and bombed or set fire to government offices and homes of local political leaders. International nongovernmental organization (NGO) offices also were attacked on several occasions, as were businesses and factories. On December 9, Maoists destroyed a clearly marked Red Cross ambulance, carrying an elderly female patient in an ambush in Kalika, Bardiya District. There also were cases of intimidation, torture, or other degrading treatment. On January 3, Maoists broke the arms and legs of local Nepali Congress Chairman Dambar Bahadur Rana in Tanahu District. On January 24, Maoists broke the legs of Chuha Village Development Committee Vice Chairman Bal Bahadur Bista in Kailali District. On February 12, Maoists attacked Thaneshwor Poudel, a teacher at a secondary school in Gulmi District, slashing his arms and legs with a khukuri knife. On March 29, Maoists attacked Nepali Congress activist Balbhadra Khanal in Tanahu District, breaking his left leg and hand. On April 5, Maoists beat up Bhim Hidhi Hamal of Jumla District, smashing one of his kneecaps. On July 9, a 19-year-old student was kidnapped, beaten, and held by Maoists for 3 days in Rukum District. On July 14, Maoists beat and tortured an elderly man in Kailali District.

Between the July 23 ceasefire and mid-September, the Government reported 87 Maoist violations of the cease-fire, including 22 different cases of Maoists beating and injuring civilians across the country. According to the press, on September 9, a Maoist cadre in the local "people's government" in Nuwakot district raped a 12-year-old girl. Government and opposition members of parliament demanded that the Maoist leadership take action against the suspect. According to press reports, a Maoist "people's court" convicted the suspect and decided he should be beaten. This sentence reportedly was carried out at the end of September.

Prison conditions are poor. According to INSEC, on November 26, Jit Bahadur Ghatri was arrested by the RNA in Dang District. He subsequently died in the hospital on November 30. The cause of his death is unknown.

Overcrowding is common in prisons, and authorities sometimes handcuff or fetter detainees. According to the Department of Prisons, there are 5,995 persons in jail, of which approximately 50 percent are awaiting trial. Women normally are incarcerated separately from men, but in similar conditions. Due to a lack of adequate juvenile detention facilities, children sometimes are incarcerated with adults--either with an incarcerated parent--or as criminal offenders. On November 20, the Government began transferring children detained in jail to two residential facilities that provide education in accord with a provision in the 1992 Children's Act. By the end of November, 28 dependent children of inmates and 7 juvenile offenders had moved into the residential facilities and begun school. At year's end 12 children remained in jail or custody as suspected or convicted criminals, and approximately 36 noncriminal dependent children were housed along with their parents (see Section 5).

In 2000 the Government established separate juvenile benches in district courts where youth are tried. As a result, trials of persons under the age of 18 now occur in a separate room in the courthouse, though there are no separate juvenile courts as such.

The authorities are more likely to transfer sick prisoners to hospitals than they were in the past. However, due to the inadequacy of appropriate facilities, the authorities sometimes place mentally ill prisoners in jails under inhumane conditions.

The law prohibits trafficking in persons and prescribes imprisonment of up to 20 years for infractions; however, trafficking in women and girls remains a serious problem in several of the country's poorest areas, and borderguards commonly accept bribes from traffickers (see Section 6.f.).

The Government permits local human rights groups and the ICRC to visit prisons. Prior to November 23, the

ICRC had full access to all prisons and police stations nationwide. However, from November 23 until year's end, the Government has not allowed ICRC to visit detainees.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution stipulates that the authorities must arraign or release a suspect within 24 hours of arrest, but the police at times violate this provision. Under the law, the police must obtain warrants for an arrest unless a person is caught in the act of committing a crime. For many offenses, the case must be filed in court within 7 days of arrest. If the court upholds the detention, the law authorizes the police to hold the suspect for 25 days to complete their investigation, with a possible extension of 7 days. However, the police occasionally hold prisoners longer. The Supreme Court has, in some cases, ordered the release of detainees held longer than 24 hours without a court appearance.

Detainees have the legal right to receive visits by family members, and they are permitted access to lawyers once authorities file charges. In practice the police grant access to prisoners on a basis that varies from prison to prison. There is a system of bail, but bonds are too expensive for most citizens. Due to court backlogs, a slow appeals process, and poor access to legal representation, pretrial detention often exceeds the period to which persons subsequently are sentenced after a trial and conviction.

Under the Public Security Act, the authorities may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, and relations between citizens of different classes or religions. Persons whom the Government detains under the Act are considered to be in preventive detention and can be held for up to 6 months without being charged with a crime. The authorities may extend periods of detention after submitting written notices to the Home Ministry. The police must notify the district court of the detention within 24 hours, and it may order an additional 6 months of detention before authorities file official charges. Human rights groups allege that the police have used arbitrary arrest and detention during the "People's War" to intimidate communities considered sympathetic to the Maoists (see Section 1.b.).

Other laws, including the Public Offenses Act, permit arbitrary detention. This act and its many amendments cover crimes such as disturbing the peace, vandalism, rioting, and fighting. Human rights monitors express concern that the act vests too much discretionary power in the CDO, the highest-ranking civil servant in each of the country's 75 districts. The act authorizes the CDO to order detentions, to issue search warrants, and to specify fines and other punishments for misdemeanors without judicial review. Few recent instances of the use of the Public Offenses Act have been reported, since it has become more common, particularly with the Maoists, to arrest persons under the Public Security Act. In 2000 local authorities in Biratnagar arrested Laxmi Mudbari, the central member of the Maoist-affiliated All Nepal Women's Association (Revolutionary), under the act; Mudbari remained incarcerated at year's end. Human rights commission officials reported several other cases of arrests or detentions under the act, but were unable to provide details of the cases.

Public Security Regulations, which implemented powers already conferred by the Public Security Act, came into effect June 4. The Regulations expand the discretionary authority given local officials to make arrests based on the suspicion of subversion or intent to commit subversive acts. The Home Ministry reports that 33 persons had been arrested under the Regulations and subsequently released by mid-October. The Government rescinded the regulations on November 9. On November 26, the King promulgated the Terrorism Ordinance of 2001 that allows suspected terrorists to be detained for up to 90 days without charge. According to a December 23 statement by the Secretaries of Defense and Home, 2,971 suspected Maoists have been arrested since the November 26 emergency declaration. Of that number, authorities plan to file cases against 481. To date none of the cases have been tried.

There have been several reports of police re-arresting persons on court premises immediately following their release by the courts. According to human rights activists, the arresting policeman usually is in plain clothes, and police habitually deny any knowledge of the re-arrest or of the subject's whereabouts. On March 5, political activist Khadga Bahadur Devkota was ordered released by a Sindhuli district court but immediately was re-arrested within yards of the prison. Human rights activists state that police continued to claim ignorance of Devkota's whereabouts until his release April 23. The NHRC has cited a former head of the Information Department of the Home Ministry and a police official for their failure to cooperate in the investigation. On June 17, Asha Khanal, a Central Committee member of the Maoists' All Nepal Women's Association (Revolutionary), was ordered released by the appellate court in Pokhara. Upon her release the following day, she immediately was re-arrested by plainclothes police while still on court premises. She later was released August 29. In December 2000, Indra Prasad Dhungel and Yuddhasingh Kunbar were ordered released from prison in Rajbiraj, Saptari district. They immediately were re-arrested the same day while still on court premises and subsequently released.

Authorities detained journalists and their advocates on occasion, on suspicion of having ties to or sympathy for

the Maoists (see Section 2.a.).

The police have arrested or illegally detained some suspected Maoist insurgents and held them incommunicado. On September 17, the Government announced that it was dropping cases against 41 Maoists, including one of several against Baburam Bhattarai, the number two person in the Maoist hierarchy. On September 18, the Government made public the names of 188 Maoists imprisoned nationwide, along with 96 others arrested on charges such as extortion and hooliganism, but not identified as Maoists. On October 16, the Government released two Maoist prisoners, one of them Matrika Yadav, the only Central Committee member in government custody.

On September 28, Maoist leader Prachanda pledged to release all captives in his group's custody. The same day the Maoists released former Member of Parliament Dev Raj Joshi (see Section 1.b.). From late September to mid-October the insurgents released 48 police prisoners; 25 of those to the ICRC (see Section 1.c.). Other purported releases of captives held by Maoists have not been verified. According to government estimates, Maoist insurgents are holding 166 civilian and police prisoners at various locations.

The Constitution prohibits exile and it is not used.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the Supreme Court has demonstrated independence; however, lower level courts remain vulnerable to political pressure, and bribery of judges and court staff is endemic. The Supreme Court has the right to review the constitutionality of legislation passed by Parliament. In the past it has ruled that provisions in the Labor Act and in the Nepal Citizenship Act are unconstitutional. In 1995 the Court also decided that the dissolution of the Parliament at the request of a former Prime Minister was unconstitutional, and ordered the body restored. On September 20, the Court found Prime Minister Deuba's August 16 decision to freeze land sales unconstitutional.

Appellate and district courts have become increasingly independent, although sometimes they remain susceptible to political pressure. In Rolpa, one of the districts most affected by the "People's War," human rights groups have accused the district courts of acting in complicity with CDO's in violating detainees' rights. Human rights groups allege that arrest without a warrant, prolonged detention without trial, and police torture occur in Maoist-affected areas.

The judicial system consists of three levels: District courts, Appellate courts, and the Supreme Court. The King appoints judges on the recommendation of the Judicial Council, a constitutional body chaired by the Chief Justice. The Council also is responsible for the assignment of judges, disciplinary action, and other administrative matters. Judges decide cases; there is no jury system. In December 2000, the Government established a Special Court with jurisdiction to hear cases related to narcotics trafficking; trafficking in women and girls; crimes against the state; and crimes related to foreign currency, such as counterfeiting and money laundering.

Delays in the administration of justice are a severe problem. According to the latest statistics, the Supreme Court has a backlog of 16,488 cases; the appellate courts 15,138; and district courts 32,537. Under the state of emergency, the right to constitutional remedy (except habeas corpus) is suspended and the Supreme Court has temporarily suspended accepting new cases.

The Constitution provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and public trials, except in some security and customs cases. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last appeal, but the King may grant pardons. The King also can suspend, commute, or remit any sentence. On the recommendation of the Government, the King often pardons up to 12 prisoners on national holidays, if they have served 75 percent of their sentence and shown good behavior.

Although prisoners have a constitutional right to legal representation and a court appointed lawyer, a government lawyer or access to private attorneys is provided only on request. Consequently, those persons unaware of their rights may be deprived of legal representation.

There have been reports of cases in previous years in which authorities allegedly penalized attorneys involved in the defense of human rights. In 1999 lawyer and human rights defender Rajendra Dhakal was arrested reportedly because of his alleged involvement in Maoist violence. He has not been seen since then (see Section 1.b.). Kathmandu newspapers reported that in 1999, four lawyers pleading for a group of three detained journalists were ordered detained themselves by a district judge as they tried to express their views



on the judicial order to detain the journalists. After other attorneys came to protest the arrests, the attorneys were released (see Section 2.a.).

Military courts adjudicate cases concerning military personnel, who are immune from prosecution in civilian courts. Military courts do not try civilians for crimes involving the military services.

The authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted tribunals hear these trials in closed sessions. No such trials have occurred during the past 6 years.

In districts where Maoists have gained effective control, the insurgents have set up "people's courts." Although these courts generally decide civil cases, eight policemen summarily executed after surrendering in Dailekh had reportedly been found guilty of crimes against the people by a hastily constituted "people's court" (see Section 1.a.).

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Government generally respected the privacy of the home and family. Search warrants are required before searches and seizures may be carried out, except in cases involving suspected security and narcotics violations. The law empowers the police to issue warrants for searches and seizures in criminal cases upon receipt of information about criminal activities. Within 24 hours of their issuance, warrants in misdemeanor cases must be approved by the CDO. Court judges must approve them in felony cases. Following renewed violence after Maoist insurgents unilaterally broke a 4-month ceasefire, on November 26, the King declared a state of emergency nationwide, in which many constitutional rights, including the right to privacy, were suspended. Since that time travelers have been stopped and subjected to vehicle and body searches by security personnel at roadblocks in many areas of the country.

Government provisions permit discrimination in employment on the basis of political opinion; however, such discrimination is not known to occur.

### Section 2 Respect For Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution specifies that all citizens shall have freedom of thought and expression and that the Government may not censor any news item or other reading material; however, the Government imposes some restrictions on these rights. The Constitution prohibits speech and writing that would threaten the sovereignty and integrity of the Kingdom; disturb the harmonious relations among persons of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality.

On November 26, King Gyanendra declared a state of national emergency. According to the Constitution, several civil rights, including freedom of expression, may be curtailed for the duration of the state of emergency. The Government has announced that restrictions under the emergency only are intended to target the Maoists and not the general population. Several journalists and editors of Maoist-affiliated newspapers were detained and their newspaper offices closed after the emergency was announced. Government authorities also requested the press in general not to run stories favorably portraying the Maoists. Editors and publishers of some non-Maoist publications have been briefly detained as well. On December 17, police detained for questioning the publisher of the centrist *Deshantar Weekly* and the pro-opposition *Sanghu Weekly*. Both were released the following day. Police in Butwal also detained the editor of *Mechi Kali Daily* on December 17 and released him the following day.

The Press and Publications Act provides for the licensing of publications and the granting of credentials to journalists. The act also includes penalties for violating these requirements. In addition the act prohibits publication of material that, among other things, promotes disrespect toward the King or the royal family; that undermines security, peace, order, the dignity of the King, or the integrity or sovereignty of the Kingdom; that creates animosity among persons of different castes and religions; or that adversely affects the good conduct or morality of the public. The act also provides a basis for banning foreign publications; however, foreign publications are widely available.

There are hundreds of independent vernacular and English-language newspapers available, representing

various political points of view. The Government owns "Gorkhapatra," the second-largest circulating Nepali-language daily, and "The Rising Nepal," the second-largest English-language daily. Editors and writers at government newspapers practice self-censorship and generally reflect government policy. Editors and writers at some private newspapers practice self-censorship as well. For several days following the June 1 killings of King Birendra and other members of the royal family allegedly by King Birendra's son Dipendra, both state-owned and private media, including newspapers, television, and radio, carried little or no coverage of the event. Ruling political parties have influenced the editorial policy of the government newspapers to their advantage. Views of human rights groups, the statements of the police, and the press releases of Maoist leaders were reported in the press prior to the imposition of the state of emergency.

Some journalists and their advocates have suffered human rights abuses. Shambhu Prasad Patel, vice president of the Rautahat Branch of the Nepal Press Union (NPU), was shot and killed by two unidentified gunmen in January 2000, at his residence. One suspect was arrested on June 20; a case against him has been filed in Rautahat District court. On March 7, the Supreme Court issued a writ of habeas corpus releasing Krishna Sen, the editor of Janadesh, from jail. He was arrested in 1999 in connection with the publication of an interview with a Maoist leader. Sen immediately was rearrested and moved to another jail in Mahottari District. Sen told the press that police forced him to sign an acknowledgement of his release even though he still was in police custody. Following protests from journalists across the country, Sen was released March 14. On June 6, police arrested Yubraj Ghimire, Binod Gyawali, and Kailash Sirohiya, editor-in-chief, director, and managing director respectively of the Kantipur newspaper, and charged them with sedition for publishing a letter from Maoist leader Baburam Bhattarai that implied King Gyanendra was complicit in the June 1 killings of his brother, King Birendra, and other members of the royal family. On June 15, Gyawali and Sirohiya were released without bail; Ghimire was required to post \$27 (Rs. 2000) bond. On August 17, the Government announced a decision to drop charges against the three. On June 27, approximately 25 plainclothes policemen raided Paru Printing Press in Kathmandu and seized 6,000 copies of the Maoist monthly Dishabodh magazine; the edition contained allegations about the June 1 killings of King Birendra and his family. Freelance journalist Milan Nepali remains missing (see Section 1.b.). In September Kantipur Publications, publisher of two of the most widely circulated privately owned newspapers, reported Maoists had attempted to extort several thousand dollars.

Amnesty International has expressed concern over the cases of Krishna Gurung (see Section 1.d.), Jalandhar Pakhrin, and Krishna Bahadur Tamang. On September 7, Krishna Gurung was arrested at the Kathmandu home of her brother, Gopal Gurung, (the author of a book advocating the abolition of the Monarchy). Police reportedly seized copies of Gopal Gurung's books from the Gurung residence and interrogated Ms. Gurung about her brother's whereabouts. AI reports that Jalandhar Pakhrin was arrested in Kathmandu on September 7 for selling copies of Gurung's book, and that Krishna Bahadur Tamang was arrested on similar charges. Gurung, Pakhrin, and Tamang were released on September 22. Since the declaration of a state of emergency November 26, authorities have detained 33 journalists, 15 of whom remained in custody at year's end.

The Broadcast Act allows private television and FM radio broadcasts, but implementation of the Act has been slow. The Government owns the only television station, and controls one radio station that broadcasts both AM and FM signals. Radio, primarily short and medium waves, reaches the greatest number of persons and has the largest influence. Government-owned Radio Nepal broadcasts throughout the country through a series of repeater stations. With privatization of a number of radio bands, there has been a marked increase in the range of programming options available. On January 12, the Government issued a circular to the private radio stations in the country reiterating a previous but little-enforced ban on the collection and broadcast by independent radio stations of news other than that provided by Radio Nepal. On July 26, the Supreme Court annulled the Government's order. As a result, privately owned FM stations can broadcast their own independently collected news but also must broadcast Radio Nepal news at least once daily. The Government does not restrict access to foreign radio broadcasts, private cable networks, or to the purchase of television satellite dishes. Indian and Pakistani broadcast television also is readily available in many parts of the country.

Two private cable television networks operate in the Kathmandu Valley. They mainly provide entertainment programming, but commentary critical of government policies occasionally occurs during publicly broadcast discussion programs. Throughout the country, local entrepreneurs also are receiving international stations via satellite for viewing in local bars, and are reselling the signal to local residents. Television time on the government-owned television station also is leased to private producers. In addition to the state-owned television station, two private television stations are licensed to produce and broadcast programs. One of those stations broadcasts through leased time slots on Television Nepal; the other through a Thai company's satellite.

During the year the Government expanded to 25 the number of private FM broadcasting licenses; 16 are operating. Private stations must broadcast the Government station's news program but also are permitted to rebroadcast news from abroad. Private radio stations, like print media, practice self-censorship.

The Government has licensed 15 companies for Internet and e-mail services. There have been many debates about liberalizing the media and privatizing government-owned media. This debate has put pressure, which successive governments so far have resisted, to open the airwaves and divest government-controlled printing operations. However, private FM radio and cable and satellite television have overtaken the Government's ability to regulate them.

No government efforts to curtail academic freedom were reported during the year.

Since the beginning of the April 15 term, threats and intimidation from Maoist-affiliated All Nepal National Independent Student Union (Revolutionary) (ANNISU-R) succeeded in closing down more than 200 private schools, primarily in areas most heavily affected by Maoist activities. Two private schools in Kathmandu remain closed, one permanently. The ANNISU-R demands, often violently, the halving of tuition, curriculum changes, and the banning of the singing of the national anthem. The ANNISU-R and other Maoist groups extort money from private schools and teachers and sometimes inflict physical punishment on school officials who are deemed inefficient or who have defied their demands. On September 12 and 13 the Maoist students' organization enforced a 2-day strike that effectively closed down nearly all public and private schools in Kathmandu. Some students and teachers at schools attempting to defy the ban reported threats and intimidation from the Maoists, and two buses from one private school were set on fire.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, although it may be restricted by law on vague grounds, such as undermining the sovereignty and integrity of the State or disturbing law and order. Freedom of assembly was one of the civil rights suspended under the November 26 state of emergency. The Government requires that organizers apply for permits for public rallies and demonstrations. Large public demonstrations are common, and police intervention is rare except in cases where crowds become violent or violate the terms of their parade permit. Local authorities in Boudhanath, Kathmandu, halted the performance of a traditional dance scheduled to be performed on February 26, during the 6-day celebration of the Tibetan New Year. Following the June 1 killings of King Birendra and other members of the royal family, the Government imposed a dusk-to-dawn curfew from June 2 to June 6. Local authorities prohibited public celebrations or religious or commemorative ceremonies in public places during the official 45-day mourning period following the June 1 killings. However, a Tibetan ceremony marking the Dalai Lama's birthday was held on the private grounds of the original Tibetan refugee camp in Jawalakhel on July 6, and on September 2, after the conclusion of the official mourning period, authorities permitted the Tibetan community to hold a public ceremony at the Boudhanath Stupa in Kathmandu.

On June 13, police arrested several members of the United People's Front at a public rally in Kathmandu held to protest the Government's handling of investigation of the royal massacre. They were subsequently released. On September 15, the Kathmandu Chief District Officer imposed a 1-month ban on all public meetings in anticipation of a massive Maoist rally to be held on September 21. The Government rescinded the ban on September 18, after the Maoists agreed to cancel the march.

In December 2000, police stopped a procession of Tibetan school children, monks, and others on their way to Swyambounath Temple in Kathmandu to celebrate the Dalai Lama's fiftieth anniversary of his assumption of state responsibility. No injuries were reported.

#### c. Freedom of Religion

The Constitution provides for freedom of religion and permits the practice of all religions; however, proselytizing is prohibited and punishable with fines or imprisonment, and members of minority religions occasionally complain of police harassment. Some Christian groups are concerned that the ban on proselytizing limits the expression of non-Hindu religious belief. The Constitution describes the country as a "Hindu Kingdom," although it does not establish Hinduism as the state religion.

A conviction for conversion or proselytizing can result in fines or imprisonment or, in the case of foreigners, expulsion from the country. Arrests or detentions for proselytizing are rare, and there have been few incidents of punishment or investigation in connection with conversion or proselytization during the last few years. However, the Government on occasion investigates reports of proselytizing. Nongovernmental groups or individuals are free to file charges of proselytizing against individuals or organizations. Such a case was filed with the Supreme Court against the Adventist Development and Relief Agency (ADRA) and the United Missions to Nepal, an umbrella Protestant NGO, in December 1999. The case still was pending at year's end. In October 2000, four Christians, including one Norwegian national, were arrested on charges of attempting to convert others in Rajbiraj, Saptari District in the east. The district court found all four guilty and sentenced each to 3 months in prison. All four were released from jail on February 15. On April 5, a case filed against the

United Mission to Nepal by a member of the Pashupati Sena Nepal, a Hindu fundamentalist group, was dismissed by the Supreme Court the following day.

For decades dozens of Christian missionary hospitals, welfare organizations, and schools have operated in the country. These organizations have not proselytized and have operated freely. Missionary schools are among the most respected institutions of secondary education in the country; many of the country's governing, business, and military elites graduated from Jesuit high schools. Many foreign Christian organizations have direct ties to the country's churches and sponsor Nepali pastors for religious training abroad.

Although such discrimination is prohibited by the Constitution, Hindu religious tradition has long prohibited members of the lowest caste from entering certain temples. In an August 16 speech, Prime Minister Deuba stressed that caste-based discrimination is illegal. Since then, temple access for members of the lowest castes has improved in many locations. Draft legislation aimed at improving conditions for members of the lowest castes still is pending at the Ministry of Law and Justice for review.

The Press and Publications Act prohibits the publication of materials that create animosity among persons of different castes or religions.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement and residence, and the Government generally does not restrict travel abroad. However, for security reasons, the Government restricts travel by foreigners, including Tibetan residents, to some areas near the Chinese border. The Government also has imposed restrictions on women's travel to the Gulf states to work as domestic servants, in response to cases of abuse of such women in the past. These restrictions do not apply to women who are traveling to the Gulf states for other reasons, nor do they apply to travel to other areas. Women's rights groups have protested the ban; however, on September 5, the Supreme Court dismissed a case challenging the restriction as discriminatory. The Government allows citizens abroad to return, and is not known to revoke citizenship for political reasons.

The Government has no official refugee policy. However, it does provide asylum for refugees and has cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees from Bhutan and Tibet. The UNHCR maintains an office in Kathmandu. Since 1959 the Government has accepted as residents approximately 20,000 Tibetan refugees, many of whom still reside in the country. Since 1991 it also has provided asylum to Bhutanese refugees, who number 101,000. The great majority of Bhutanese refugees live in UNHCR administered camps in the eastern part of the country. Since the flight of the Karmapa Lama from Tibet in January 2000, the Government has disallowed UNHCR access to the Nepal-China border to monitor the treatment of Tibetan refugees. In September the Government authorized UNHCR to travel to the headquarters of a border district, but not the border itself, to consult with local officials.

The People's Republic of China and the Government tightened control of movement across their border in 1986, but neither side has consistently enforced those restrictions. Police and customs officials occasionally harass Tibetan asylum seekers who cross the border from China. According to the UNHCR, police conduct in this regard has improved since 1999, although border police sometimes extort money from Tibetans in exchange for passage. There were confirmed reports of the forced repatriation of seven Tibetan asylum seekers during the year.

On March 15, 18 Tibetans arrested for entering the country from India without proper travel documents were released after serving 4 months in prison. The individuals were turned over to UNHCR, which labeled them "persons of concern" and returned them to India. In August 10 Tibetans previously resident in India were arrested in Kathmandu for failure to possess required travel documents, and were convicted of immigration violations.

There are approximately 101,000 ethnic Nepali refugees from Bhutan in UNHCR-administered camps in the eastern region of the country. An additional 15,000 refugees reside outside the camps in either the country or India. The total represents approximately one-sixth of Bhutan's estimated pre-1991 population.

The UNHCR monitors the condition of the Bhutanese refugees and provides for their basic needs. U.N. officials, diplomats and NGO representative visitors to the camps universally describe conditions as excellent. The Government accepts the refugee presence as temporary on humanitarian grounds. The camps are administered by UNHCR; the World Food Program (WFP) provides sustenance and the Government makes a contribution to the WFP earmarked for the refugees. The excellent condition of the camps result from a combination of efficient UNHCR administration, conscientious government oversight and the refugees taking

responsibility for their surroundings. The Government officially restricts refugee freedom of movement and work, but does not strictly enforce its policies. Local authorities have attempted to restrict some of the limited economic activity in the camps permitted by the central Government. Violence sometimes has broken out between camp residents and the surrounding local population. The UNHCR and other donors and relief organizations have defused tensions through an assistance plan for refugee-affected areas aimed at improving conditions in communities adjacent to the camps.

In 1993 the Government and the Government of Bhutan formed a joint committee and began bilateral talks to resolve the refugee problem. During the tenth round of bilateral talks in December 2000, they agreed on preparations for verification at the camps. Verification interviews at the first refugee camp commenced on March 26 and concluded on December 14. At year's end, a planned ministerial-level meeting to decide further action had not yet been convened. The talks' earlier lack of progress frustrated refugees, and some held "peace marches" to protest their plight.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to change their government peacefully. Citizens, through their elected representatives, also have the right to amend the Constitution with the exception of certain basic principles that they may not change--sovereignty vested in the people, the multiparty system, fundamental rights, and the constitutional monarchy.

The country is a constitutional monarchy with a parliamentary form of government. Parliamentary elections are scheduled at least every 5 years. Midterm elections may be called if the ruling party loses its majority, loses a vote of no confidence, or calls for elections. Under the Constitution all citizens aged 18 and over may vote. The House of Representatives, or lower house, may send legislation directly to the King by majority vote. The National Assembly, or upper house, may amend or reject lower house legislation, but the lower house can overrule its objections. The upper house also may introduce legislation and send it to the lower house for consideration. Following the June 1 death of King Birendra, the King's brother, Prince Gyanendra, assumed the throne on June 4.

The King exercises certain powers with the advice and consent of the Council of Ministers and the Prime Minister. The King has exclusive authority to enact, amend, and repeal laws relating to succession to the throne. The King's income and property are tax-exempt and inviolable, and no question may be raised in any court about any act performed by the King. The Constitution permits the King, acting on advice of the Council of Ministers, to exercise emergency powers in the event of war, external aggression, armed revolt, or extreme economic depression. In such an emergency, the King, as advised by the civilian government, may suspend without judicial review many basic freedoms, including the freedoms of expression and assembly, freedom from censorship, and freedom from preventive detention. However, he may not suspend habeas corpus or the right to form associations. The King's declaration of a state of emergency must be approved after 3 months by a two-thirds majority of the lower house of the Parliament. If the lower house is not in session, the upper house exercises this power. A state of emergency may be maintained for up to 3 months without legislative approval and for up to 6 months, renewable only once for an additional 6 months, if the legislature grants approval.

The Constitution bars the registration and participation in elections of any political party that is based on "religion, community, caste, tribe, or region," or that does not operate openly and democratically. During the most recent national elections in 1999, there were sporadic incidents of violence that mainly occurred between supporters of rival political parties. Maoist efforts to disrupt the elections by intimidating voters and candidates had little effect. The elections generally were held throughout the country according to schedule. International observers considered the elections to be generally free and fair.

The percentage of women and minorities in government or politics does not correspond to percentages of the population. There are no specific laws that restrict women, indigenous people, or minorities from participating in the Government or in political parties. Tradition limits the roles of women and some castes in the political process. However, the Constitution requires that women constitute at least 5 percent of each party's candidates for the House of Representatives. A 1999 royal ordinance, which Parliament has ratified, also requires that at least 20 percent of all village and municipal level seats be reserved for female candidates. The 1999 elections resulted in an increase from 7 to 12 in the number of women in the 205-seat lower house and from 5 to 9 in the 60-seat upper house.

No specific laws prevent minorities from voting or restrict them from participating in the Government and political parties on the same basis as other citizens. Hindus and members of certain castes traditionally have held more power than others, but members of other religious and social groups have in the past few years gained increasing influence in government, including senior leadership positions. There are no special provisions to allocate a set number or percentage of political party positions or parliamentary seats for any

minority group. On August 10, Ramprit Paswan, an opposition Member of Parliament and a "dalit" (member of the lowest caste), was elected Vice Chairman of the National Assembly.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are approximately 10 domestic human rights NGO's. These include the Human Rights Organization of Nepal (HURON), the Informal Sector Services Center (INSEC), the International Institute for Human Rights, Environment, and Development (INHURED), and the Forum for the Protection of Human Rights (FOPHUR). The Nepal Law Society also monitors human rights abuses and a number of NGO's focus on specific areas such as torture, child labor, women's rights, or ethnic minorities. The Government rarely arrests or detains persons reporting on human rights problems, although several human rights activists suspected of Maoist affiliation have been detained since the November declaration of the state of emergency. Bishnu Prasad Khanal, coordinator of the Amnesty International Lawyers Group in Surkhet district, has been held by police since November 27. Tim Kumari Kumal, a member of the Human Rights Education and Development Center in Syangja district, has been detained since November 29. Prem Bahadur Saud, Program Coordinator of the Human Rights and Public Awareness Center in Dadeldhura district has been detained since December 3. Three members of human rights organizations in Chitwan District have been detained since December 16. There were reports that the Government and the Maoists limited the activities of human rights activists. On November 28 police briefly detained Radma Ratna Tuladhar, chairman of the Forum for Protection of Human Rights, at Tribhuvan International Airport as he was leaving on a flight for India. He was released within a few hours and allowed to leave the country. Hari Narayan Shrestha of Human Rights and Peace Society's Ramechhap district office was abducted by Maoists on August 18 and released 3 days later. Maoists also prevented journalists and human rights activists who traveled to Rolpa in September to inspect the area freely on their own.

In July 2000, police officers released Bishnu Pukar Shrestha, a secondary school teacher, lawyer, and member of a human rights organization; Shrestha never was charged with any crime (see Sections 1.b. and 1.c.).

The insurgency has caused a number of NGO's in the midwestern districts to reduce their activities substantially. Maoists also have targeted aircraft attempting to make humanitarian deliveries of foodstuffs to midwestern districts.

In May 2000, the Government formed the National Human Rights Commission (NHRC), a government-appointed commission with a mandate to investigate human rights violations. The Commission includes members from all major political parties and operates independently; however, resource constraints and insufficient manpower restrict the number of cases the commission can bring to court. Once the NHRC completes an investigation and makes a recommendation, the Government has 3 months to respond. Since its establishment, the Commission has received 528 complaints of human rights violations, and has investigated 51. Some cases involve disappearance of detainees, illegal detention, and arrest of acquitted persons, but many other cases are relatively trivial.

The Government does not refuse visas to international NGO human rights monitors, or otherwise restrict their access when they are in the country. However, some areas along the country's border with China are restricted. An organization monitoring Tibetan refugee flows has been denied access to these border areas.

#### Section 5 Discrimination Based on Race, Sex, Religion,

Disability, Language, or Social Status

The Constitution specifies that the Government shall not discriminate against citizens on grounds of religion, race, sex, caste, or ideology; however, there still is a de facto caste system. Discrimination against lower castes, women, and the disabled remains common, especially in rural areas.

#### Women

Violence against women is a serious problem that receives limited public attention. In a 1996 survey, 50 percent of respondents stated that they knew someone who was the victim of domestic violence. Respondents to another 1996 survey listed the perpetrators of violence in 77 percent of incidents as family members, and 58 percent reported that it is a daily occurrence. There is no law against domestic violence.

Rape and incest also are problems, particularly in rural areas. Laws against rape provide for prison sentences

of 6 to 10 years for the rape of a woman under 14 years of age and 3 to 5 years for the rape of a woman over the age of 14. The law prescribes imprisonment for 1 year or a fine for the rape of a prostitute. The law does not forbid spousal rape. A survey conducted during the year by SAATHI, a local NGO headed by the Prime Minister's wife, found that 39 percent of rape victims who reported the crime to police were under the age of 19. Of those victims who reported the crime to the authorities, 25 percent said the perpetrator was convicted and jailed.

The dowry tradition is strong, with greater prevalence in the Terai region. The killing of brides because of defaults on dowry payments is rare, but does occur. More common is the physical abuse of wives by the husband and the husband's family to obtain additional dowry or to force the woman to leave to enable the son to remarry.

There is a general unwillingness among citizens, and particularly among government authorities, to recognize violence against women as a problem. In a survey conducted by SAATHI, 42 percent of the respondents said that in their experience medical practitioners were uncooperative or negligent in cases of violence against women and girls. This unwillingness to recognize violence against women and girls as unacceptable in daily life is seen not just in the medical profession, but among the police and politicians as well.

Folk beliefs about witchcraft, which are especially strong in the lowland Terai area on the Indian border, generally target women, particularly elderly and/or widowed women. Shamans or other local authority figures sometimes publicly beat and physically abuse suspected witches as part of an exorcism ceremony. On September 11, two men, including a local village official, were jailed in Simardahi, Mahottari District, after failing to post bond for charges relating to the August 14 beating of an elderly woman after publicly denouncing her as a witch. The two men had been charged under the Public Offense Act. On September 20, police arrested five men in Sirsiya Khalbatol, Parsa, for beating and forcefeeding feces to a 60-year-old widow suspected of witchcraft. On September 24, the Supreme Court issued a show cause notice to the Government for its failure to enact a law specifically to punish perpetrators of violence in witchcraft cases. On September 26, four villagers beat 60-year-old Malechhiya Devi to death in Bel Ekdara, Mahottari, on suspicion of witchcraft. On September 29, the victim's widower filed charges against the five suspects, who fled after the incident (see Section 1.a.).

The police department has a "women's cell" in five cities, including Kathmandu, and in 16 districts. These cells include female officers who receive special training in handling victims of domestic violence. The police also have sent out directives instructing all officers to treat domestic violence as a criminal offense that should be prosecuted. However, according to a police official, this type of directive is difficult to enforce because of entrenched discriminatory attitudes. Even though the police may make an arrest, further prosecution often is not pursued by the victim or by the Government.

At least six NGO's in Kathmandu work on the problem of violence against women and on women's issues in general. SAATHI's assistance program includes a women's shelter and a suicide intervention center. The shelter provides housing, medical attention, counseling, and legal advocacy for the victims of violence.

Trafficking in women remains a serious problem in several of the country's poorest areas, and large numbers of women still are forced to work against their will as prostitutes in other countries (see Sections 6.c. and 6.f.).

Although the Constitution provides protections for women, including equal pay for equal work, the Government often has not taken significant action to implement those provisions, even in many state industries. Women face systematic discrimination, particularly in rural areas, where religious and cultural tradition, lack of education, and ignorance of the law remain severe impediments to their exercise of basic rights such as the right to vote or to hold property in their own names. Women have benefited from some changes in marriage and inheritance laws. The Citizenship Law discriminates against foreign spouses of female citizens, and denies citizenship to the children of female citizens married to foreign spouses, even if those children are born in the country. Many other discriminatory laws still remain. According to legal experts, there are over 20 laws that discriminate against women. For example, the law grants women the right to divorce, but on narrower grounds than those applicable to men. The law on property rights also favors men in its provisions for inheritance, land tenancy, and the division of family property. In 1995 the Supreme Court ordered the Council of Ministers to enact legislation within 1 year giving women property rights in regard to inheritance and land tenancy that were equal to those of men. Legislation to comply with this order was introduced, but was not approved in Parliament.

According to the 1991 census, the most recent statistics available, the female literacy rate is 26 percent, compared with 57 percent for men. Human rights groups report that girls attend secondary schools at a rate half that of boys. There are many NGO's focused on integrating women into society and the economy. These NGO's work in the areas of literacy, small business, skills transfer, and prevention of trafficking in women and

girls. There also are a growing number of women's advocacy groups.

Most political parties have women's groups. Members of Parliament have begun working for the passage of tougher laws for crimes of sexual assault, but have had little success so far.

#### Children

Education is not compulsory. Government policy is to provide free primary education for all children between the ages of 6 and 12 years, but the quality of education is sorely inadequate, many families cannot afford school supplies and clothing, and schools do not exist in all areas. Schools charge fees for higher education. Approximately 60 percent of the children who work also attend school. However, approximately 70 to 75 percent of boys who work go to school, compared to only 50 to 60 percent of the girls who work. Basic health care is provided free to children and adults at government clinics, but they are poorly equipped and too few in number to meet the demand. Community-based health programs assist in the prevention of childhood diseases and provide primary health care services. Poor or nonexistent sanitation in rural areas puts many children at risk from severe and fatal illnesses. The Government has made significant progress in improving basic community health care services over the past 5 years, bringing down the mortality rate of children under age 5 by 23 percent since 1996. A Vitamin A supplementation program operates nationwide, and immunization outreach has increased from 45 percent in 1996 to 60 percent this year. The lack of adequate antenatal care and widespread malnutrition remain problems.

Forced prostitution and trafficking in young girls remain serious problems (see Sections 6.c. and 6.f.).

Societal attitudes view a female child as a commodity, to be bartered off in marriage, or as a burden. Some persons, in fact, consider marrying a girl before menarche an honorable, sacred act that increases one's chances of a better afterlife. As a result, child brides are common. According to UNICEF's Regional Office for South Asia, 40 percent of all marriages involve a girl under 14 years of age. The age difference in marriage often is cited as one cause of domestic violence.

The Government incarcerates children with adults because it has not established adequate juvenile detention facilities. On November 20, the Government began transferring children detained in jail to two residential facilities that provide education in accord with a provision in the 1992 Children's Act. By the end of November, 28 dependent children of inmates and 7 juvenile offenders had moved into the residential facilities and begun school. At year's end, 12 children remained in jail or custody as suspected or convicted criminals, and approximately 36 noncriminal dependent children were housed along with their parents (see Section 1.c.).

There have been numerous reports that Maoists recruit teenagers to serve among their armed cadre.

#### Persons with Disabilities

Persons with disabilities face widespread societal discrimination. Families often are stigmatized by and ashamed of family members with disabilities, who may be hidden away or neglected. Economic integration is further hampered by the general view that persons with disabilities are unproductive. The mentally retarded are associated with the mentally ill. Sometimes mentally ill and retarded persons are placed in prisons due to the lack of facilities or support.

The Government long has been involved in providing for persons with disabilities, but limited resources have kept the level of government assistance insufficient to meet their needs. The Disabled Persons Protection and Welfare Act and additional 1994 rules mandate accessibility to buildings, transportation, employment, education, and other state services. The Government has begun developing a policy on equal access for persons with disabilities to public buildings and transportation. However, despite government funding for special education programs, the Government does not implement effectively or enforce laws regarding persons with disabilities. A number of NGO's working with persons with disabilities receive significant funding from the Government, but persons who with physical or mental disabilities rely almost exclusively on family members to assist them.

#### Religious Minorities

The adherents of the country's many religions generally coexist peacefully and respect all places of worship. Most Hindus respect the many Buddhist shrines located throughout the country; Buddhists accord Hindu shrines the same respect. Buddha's birthplace is an important pilgrimage site, and Buddha's birthday is a national holiday. The country's small Muslim community is concentrated primarily along the southern border with India, with cultural and religious customs markedly different from its Buddhist and Hindu neighbors. They



tend to send their children to religious schools more frequently than Buddhists and Hindus but are not forcibly segregated from other religious groups.

Some Christian groups report that Hindu fundamentalism has increased in the past few years. In 1999 the India-based Hindu political party Shiv Sena, locally known as Pashupati Sena, opened an office in Kathmandu; a few Shiv Sena candidates unsuccessfully ran for office in the 1999 general elections.

Government policy does not support religious extremism, although some political figures have made public statements critical of Christian missionary activities. Some citizens are wary of proselytizing and conversion by Christians and, therefore, view the presence of Christianity with alarm. In July 2000, some members of a predominantly Buddhist community in Gumda, Gorkha district vandalized the homes of six Christian converts. According to press reports, the six families were reintegrated into the community after agreeing not to kill animals or perform other activities contrary to the tenets of Buddhism during religious festivals. Two representatives of different Christian organizations also have alleged persecution of Christians and destruction of at least two churches by Maoist sympathizers. Those who choose to convert to other religions--in particular Hindu citizens who convert to Islam or Christianity--sometimes are ostracized socially. Some reportedly have been forced to leave their villages. While this prejudice is not systematic, it can be vehement and occasionally violent. Hindus who convert to another religion may face isolated incidents of hostility or discrimination from Hindu extremist groups. Nevertheless, converts generally do not fear to admit in public their new religious affiliations.

The caste system strongly influences society, even though it is prohibited by the Constitution. Caste discrimination is widely practiced at Hindu temples where, for example, members of the lowest castes are not permitted to enter. Otherwise, the Government makes an effort to protect the rights of the disadvantaged castes.

On August 16, the Prime Minister made a speech emphasizing that caste-based discrimination, including barring access to temples, is illegal. Since then, members of the lower castes have successfully and publicly entered many temples, including Pashupatinath, the national site most sacred to Hindus.

#### National/Racial/Ethnic Minorities

The country has over 75 ethnic groups that speak 50 different languages. The Constitution provides that each community "shall have the right to preserve and promote its language, script, and culture." The Constitution further specifies that each community has the right to operate schools up to the primary level in its mother tongue.

In remote areas, school lessons and national radio broadcasts often are conducted in the local language. However, in areas with nearby municipalities, education at the primary, secondary, and university levels is conducted almost exclusively in Nepali, which is constitutionally mandated as the official language of the State. Human rights groups report that the languages of the small Kusunda, Dura, and Meche communities are nearly extinct.

Discrimination against lower castes is especially common in the rural areas in the western part of the country, even though the Government has outlawed the public shunning of "untouchables," and makes an effort to protect the rights of the disadvantaged castes. Economic, social and educational advancement tend to be a function of historical patterns, geographic location, and caste. Better education and higher levels of prosperity, especially in the Kathmandu Valley, slowly are reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better educated, urban-oriented castes (Brahmin, Chhetri, and certain elements of the Newar community traditionally dominant in the Kathmandu Valley) continue to dominate politics and senior administrative and military positions, and to control a disproportionate share of natural resources in their territories.

#### Section 6 Worker Rights

##### a. The Right of Association

The Constitution provides for the freedom to establish and to join unions and associations. It permits the restriction of unions only in cases of subversion, sedition, or similar conditions. Trade unions have developed administrative structures to organize workers, to bargain collectively, and to conduct worker education programs. The three largest trade unions are affiliated with political parties.

Union participation in the formal sector accounts for approximately 10 to 12 percent of the formal work force.

The Labor Act and the Trade Union Act, formulated enabling regulations; however, the Government has not yet fully implemented these acts. The Trade Union Act defines procedures for establishing trade unions, associations, and federations. It also protects unions and officials from lawsuits arising from actions taken in the discharge of union duties, including collective bargaining, and prohibits employers from discriminating against trade union members or organizers. There have been few reports of discrimination against union members.

The law permits strikes, except by employees in essential services such as water supply, electricity, and telecommunications. The law empowers the Government to halt a strike or to suspend a union's activities if the union disturbs the peace or if it adversely affects the nation's economic interests. Under the Labor Act, 60 percent of a union's membership must vote in favor of a strike in a secret ballot for the strike to be legal. On March 15 the Government averted a strike threatened by hotel employees by determining that hotel employees fall under the Essential Services Act that proscribes strikes. Contract employees at a foreign-owned factory in Hetauda district struck from August 26 to 28 after management refused to hire them as permanent employees. Strike organizers suspended the strike after 3 days. Throughout the year there were frequent reports of Maoist-affiliated agitators disrupting work at garment and carpet factories in the Kathmandu Valley. Some factory owners reported receiving demands from the Maoists that included tripling wages for unskilled laborers; hiring all seasonal or contract employees as permanent labor; and firing any foreign workers. On August 13, Maoist labor organizers stopped work at four Kathmandu Valley garment factories for several hours, shut off the electricity, and forced employees outside to listen to speeches.

The Government does not restrict unions from joining

international labor bodies. Several trade federations and union organizations maintain a variety of international affiliations.

#### b. The Right to Organize and Bargain Collectively

The Labor Act provides for collective bargaining, although the organizational structures to implement the act's provisions have not been established. Collective bargaining agreements cover an estimated 20 percent of wage earners in the organized sector, and hotel workers have bargained aggressively for additional compensation. However, in general, labor remains widely unable to use collective bargaining effectively due to inexperience and employer reluctance to bargain.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits slavery, serfdom, forced labor, or trafficking in persons in any form; however, forced labor and trafficking in persons remain problems (see Section 6.f.). The Department of Labor enforces laws against forced labor in the small formal sector, but remains unable to enforce the law outside that sector. On September 13, Parliament ratified International Labor Organization (ILO) Convention 29 on Forced or Compulsory Labor.

Historically, a system of bonded agricultural laborers, known as the Kamaiyas, existed in areas of the western Terai region. In July 2000, the Government made illegal bonded labor and released the "Kamaiya" bonded agricultural workers from their debts. Resettlement of the Kamaiyas began on January 18, and distribution of land began in March. To date, approximately 1,000 heads of household have been provided with up to .335 acres of land and 75 cubic feet of timber to build houses. The Government has set up temporary camps for Kamaiyas still awaiting settlement and has begun arrangements for distribution of food under a food-for-work program. Large numbers of women still are forced to work against their will as prostitutes (see Section 6.f.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution stipulates that children shall not be employed in factories, mines, or similar hazardous work and limits children between the ages of 14 and 16 years to a 36-hour workweek. The law establishes a minimum age for employment of minors at 16 years in industry and 14 years in agriculture and mandates acceptable working conditions for children.

On September 13, Parliament ratified ILO Convention 182 on the elimination of the worst forms of child labor. In July 2000 the Government passed the Child Labor Act, the country's first comprehensive child labor law. The law, drafted with the assistance of the ILO, is the first national legislation to establish specific penalties for those who unlawfully employ children. It repeats the existing prohibition of the employment of children under

the age of 14 years and renews the constitutional provision that children between the ages of 14 and 16 years may work, but no more than 6 hours a day and 6 days a week. The law prohibits child labor in tourism, cigarette or carpet factories, mines, or laboratories. Employers must maintain records of all 14-to 16-year-old laborers. However, because the necessary implementing regulations to accompany the law have not yet been passed, implementation is difficult. On September 6, the Supreme Court, acting on a petition filed by an NGO, ordered several government ministries to explain the lack of progress on implementing regulations for the Child Labor Act.

These legal protections notwithstanding, resources devoted to their enforcement are limited, and children work in many sectors of the economy. NGO's estimate that 2.6 million children--most of them girls--are economically active. Of that number, 1.7 million children work full time. The agricultural sector accounts for most child laborers--an estimated 95 percent. According to a 1996 ILO study, most working children in the country are girls. Roughly 60 percent of children who work also attend school. Approximately 70 to 75 percent of boys who work go to school, compared with 50 to 60 percent of girls who work. Others are economically active in a few small-scale and cottage industries, such as ragpicking, brick and tile works, quarries, coal mines, match factories and auto repair shops. In previous years there were reports that children also were economically active in the carpet weaving, pottery, basket weaving, sewing, and ironsmithing industries. A small number of children are employed in bars and restaurants and as domestics and porters.

There are reports that the Maoists use children, including girls, as soldiers, shields, runners, and messengers.

The Ministry of Labor's enforcement record is mixed. According to the Ministry, during the year it conducted several hundred inspections of carpet factories in the Kathmandu Valley to ensure that no child labor was present. The Ministry, with the help of the ILO, has set up 12 daycare centers in 6 districts for children of carpet weavers, who might otherwise join their parents at the loom. The Government also conducts public awareness programs to raise public sensitivity to the problem of child labor.

The private sector has made its own efforts to eradicate child labor, especially in the carpet industry. In August 1999 the carpet manufacturers association pledged publicly to end child labor in the industry by 2005. The Rugmark Foundation certifies carpets made without child labor; over half of all carpet factories participate in this or a similar certification system. As a result of this initiative, and of consumer pressure, Rugmark estimates that children constitute only 2 percent of the work force in the export-oriented carpet industry. However, children's rights activists still state that children remain a part of the work force, in the smaller factories.

Trafficking in girls continues to be a serious problem(see Section 6.f.).

#### e. Acceptable Conditions of Work

In April 2000 the Government passed legislation that raised the minimum monthly wage for unskilled labor to \$20 (Rs. 1,450). The law also defined monthly minimum wages for semi-skilled labor at approximately \$21 (Rs. 1,500), skilled labor at \$22 (Rs. 1,610), and highly skilled labor at \$25 (Rs. 1,800). The minimum wage for children ages 14 to 16 was set at \$16 (Rs. 1,144). Wages in the unorganized service sector and in agriculture often are as much as 50 percent lower. The Labor Act calls for a 48-hour workweek, with 1 day off per week, and limits overtime to 20 hours per week.

Health and safety standards and other benefits such as a provident fund and maternity benefits also are established in the act. Implementation of the new Labor Act has been slow, as the Government has not created the necessary regulatory or administrative structures to enforce its provisions. Workers do not have the right to remove themselves from dangerous work situations without fear of losing their jobs. Although the law authorizes labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remains minimal.

#### f. Trafficking in Persons

The law prohibits trafficking in persons and prescribes imprisonment of up to 20 years for infractions; however, trafficking in women and girls remains a serious problem in several of the country's poorest areas, and borderguards commonly accept bribes from traffickers. The Government protects the rights of victims and does not detain, jail, or prosecute them for violations of other laws. Young women are by far the most common targets; trafficking of boys has been reported in rare instances. While the vast majority of trafficking is of women and girls for sexual exploitation, women and girls sometimes are trafficked for domestic service, manual or semi-skilled bonded labor, or other purposes. The country is a primary source country for the South Asia region; most women and girls trafficked from the country go to India. Local NGO's combating trafficking estimate that from 5,000 to 12,000 Nepali women and girls are lured or abducted annually into India and

subsequently forced into prostitution; however, these numbers are not consistent and NGO's are seeking better estimates. Citizens reportedly also have been trafficked to Hong Kong, Saudi Arabia, and other countries in the Middle East. In some cases, parents or relatives sell women and young girls into sexual slavery. Hundreds of girls and women return to the country annually after having worked as prostitutes in India. Most are destitute and, according to some estimates, 50 percent are HIV-positive when they return. There is legislation to protect women from coercive trafficking, including a ban on female domestic labor leaving the country to work in Saudi Arabia and other countries in the Gulf; however, enforcement is not strict and penalties are modest (see Section 2.d.). Women's rights groups have protested the ban as discriminatory: Government officials suspect that organized crime groups and "marriage brokers" are the primary perpetrators of trafficking in the country. The traffickers usually are from the country, but have links to brothels in India. NGO's report that approximately 50 percent of the victims are lured to India with the promise of good jobs and marriage, 40 percent are sold by a family member and 10 percent are kidnaped. These estimates have not been verified. NGO's have found that once prevention programs are instigated in a district, the traffickers move to other areas.

A children's human rights group states that 20 percent of prostitutes in the country are younger than 16 years old. Since 1996 active special police units have dealt with crimes against women and children.

Enforcement of antitrafficking statutes remains sporadic, but the Ministry of Women, Children and Social Welfare (MOWCSW) has introduced legislation to toughen penalties against traffickers. The Human Trafficking Control Act of 1986 prohibits selling persons in the country or abroad and provides for penalties of up to 20 years' imprisonment for traffickers. However, this legislation does not criminalize the separation of minors from their legal guardians with the intent of trafficking them. As a result, no crime occurs until the victim and perpetrators are outside the jurisdiction. There are many social and legal obstacles to successful prosecution, and convictions are rare. Border guards commonly accept bribes to allow contraband and trafficked girls in or out of the country.

According to the 1999-2000 annual report of the Attorney General's Office, 470 antitrafficking cases have been filed, of which 86 resulted in convictions and 53 in acquittals, while 331 remain undecided. A survey conducted of 3 jails in the capital by the Human Rights and Environment Forum (HUREF) found 180 convicted or alleged traffickers in jail. Those convicted were serving sentences of up to 20 years.

While the Government lacks both the resources and institutional capability to address effectively its trafficking problem, the Government has established a National Task Force at MOWCSW with personnel assigned to coordinate the response. There are programs in place to train the police and the MOWCSW works closely with local NGO's to rehabilitate and otherwise assist victims. However, the Government lacks the fiscal means to provide adequate training and resources to police, and the courts are overburdened and susceptible to corruption. Government welfare agencies generally are incapable of delivering effective public outreach programs or assistance to trafficking victims. As a result, antitrafficking efforts primarily have been the domain of NGO's and bilateral donors. While the Government has promulgated a "National Plan of Action" to combat trafficking, its implementation has been haphazard.

The Government provides limited funding to NGO's to provide assistance to victims with rehabilitation, medical care, and legal services. The Ministry of Labor and Social Welfare sponsors job and skill training programs in several poor districts known for sending prostitutes to India. In May 1999, the Ministry of Women and Social Welfare opened the Women's Skill Development and Training Center, a rehabilitation and skills training center for women returned from being trafficked and for women and girls at risk of being trafficked. The Government protects the rights of victims and does not detain, jail, or prosecute them for violations of other laws.

The Government, together with NGO's and international organizations, has implemented local, regional and national public awareness campaigns about trafficking in persons. Cultural attitudes toward returned victims of trafficking are often negative and the Government response sometimes reflects that bias. There are more than 40 NGO's combating trafficking, several of which have rehabilitation and skills training programs for trafficking victims. Two representative NGO's are members of the MOWCSW's National Task Force Against Trafficking. With the Government's endorsement, many NGO's have public information and outreach campaigns in rural areas. These groups commonly use leaflets, comic books, films, speaker programs, and skits to convey antitrafficking messages and education. Some organizations involved in the rehabilitation of trafficking victims state that their members have been threatened and that their offices have been vandalized because of their activities.

In October 2000, the U.N. Development Fund for Women (UNIFEM), NGO's and the Home Ministry together hosted a regional workshop with senior police officers to enhance cross border antitrafficking collaboration. NGO's and law enforcement officials discussed ways of improving bilateral and regional cooperation on investigating and prosecuting traffickers and ensuring better protection of victims.